

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Order Instituting  
Investigation on the Commission's Own  
Motion, Notice of Opportunity for To  
Be Heard, and Order to Show Cause  
Regarding the Operations and Practices  
of Arnold Ray Baeza, an Individual  
Doing Business as Best Movers.

Respondent.

FILED  
PUBLIC UTILITIES COMMISSION  
FEBRUARY 11, 2004  
SAN FRANCISCO  
I.04-02-008

**ORDER INSTITUTING INVESTIGATION,  
NOTICE OF OPPORTUNITY TO BE HEARD,  
AND ORDER TO SHOW CAUSE**

**I. SUMMARY**

Pursuant to Sections 2113 and 5285(b),<sup>1</sup> this Order Instituting Investigation, Notice of Opportunity to Be Heard, and Order to Show Cause (hereafter collectively referred to as the "OII" or "I.") gives the respondent notice and an opportunity for a

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<sup>1</sup> "Section" means a provision of the California Public Utilities Code, unless otherwise indicated. Sec. 2113 states:

Every public utility, corporation, or person which fails to comply with any part of any order, decision, rule, regulation, direction, demand, or requirement of the commission or any commissioner is in contempt of the commission, and is punishable by the commission for contempt in the same manner and to the same extent as contempt is punished by courts of record. The remedy prescribed in this section does not bar or affect any other remedy prescribed in this part, but is cumulative and in addition thereto.

Sec. 5285(b) states in pertinent part:

The permit of any household goods carrier may . . . on the commission's own initiative, after notice and opportunity to be heard, be suspended, changed, or revoked, in whole or in part, for failure to comply with any provision of this chapter or with any order, rule, or regulation of the commission or with any term, condition, or limitation of the permit. A household goods carrier which requests a hearing within 30 days after receiving the notice and opportunity to be heard shall be granted a hearing.

hearing, and orders the respondent to show cause, if any, at the hearing why the respondent should not be adjudged in contempt of the Commission and fined and penalized, for failing to comply with Commission Decision (D.) 02-05-028<sup>2</sup> and with any other pertinent Commission order, decision, rule, regulation, direction, demand, requirement, and/or California Public Utilities Code statute.<sup>3</sup>

This OII is based on the Declaration and Supplemental Report (Declaration) of Consumer Protection and Safety Division (CPSD) supervisor William G. Waldorf, dated October 7, 2003, and attached hereto.<sup>4</sup> According to CPSD, the respondent Arnold Ray Baeza (Baeza), an individual doing business as a Household Goods Carrier in the name of “Best Movers,” violated Commission orders in D.02-05-028. Additionally, since October 2002 and to the present, CPSD asserts the respondent has been unlawfully operating and holding himself out to the public as a Household Goods Carrier without having a valid Permit in force at such times.

## **II. BACKGROUND**

On June 14, 2001, the Commission instituted an investigation into the operations and practices of the respondent.<sup>5</sup> On December 24, 2001, the respondent’s Permit was administratively revoked for failure to maintain the required insurance coverages. Since that revocation and to the date of this OII, the respondent has not reinstated his Permit by maintaining in effect and on file with the Commission the requisite insurance coverages.

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<sup>2</sup> *In Re Arnold Ray Baeza, An Individual, Doing Business As Best Movers, Respondent*, I.01-06-021 (filed 6/14/2001), D.02-05-028, 2002 Cal. PUC LEXIS 247 (dated 5/16/2002).

<sup>3</sup> *See e.g.*, Secs. 5133, 5313, & 5313.5.

<sup>4</sup> The Declaration and Supplemental Report (Declaration) of CPSD William G. Waldorf and the attachments thereto are incorporated by reference as if fully stated herein.

<sup>5</sup> *See supra* above at n2.

On May 16, 2002, the Commission in D.02-05-028 *inter alia* ordered the following:

- Beginning the day after May 16, 2002, the respondent is placed on three-year probation.
- During his probation, the respondent must maintain on file and in effect at all times with the License Section evidence of the requisite insurance coverages (e.g., liability, cargo, and workers' compensation insurance); and pay all past due quarterly fees.
- The respondent must pay a fine of \$19,000; however all but \$5,000 of the total fine is suspended during the three-year probation. The respondent must pay the unsuspended \$5,000 fine in five monthly installments of \$1,000 each. Failure to make an installment payment will render the entire \$19,000 fine to become immediately due and payable.<sup>6</sup>
- Not later than 60 days after the issuance date of D.02-05-028, the respondent must pay in full the Small Claims Court judgment (including costs) as specified by the Decision.
- The respondent must file quarterly written reports with the Commission during the three-year probationary period.<sup>7</sup>

On August 20, 2003, the Superior Court for the County of San Bernardino authorized the disconnection by the local telephone service provider, SBC, of two telephone lines used by the respondent in his business. Based on CPSD's investigation, the Court found that during 2002 through 2003, the respondent has been advertising and

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<sup>6</sup> See D.02-05-028, Ordering Paras. 5 & 6, at 2002 Cal. PUC LEXIS 247, \*27- \*28 state as follows:

5. Baeza is fined \$19,000, with all but \$ 5,000 suspended provided Baeza complies with this decision. Baeza shall pay the \$ 5,000 fine in [\*28] five installments, with the first installment of \$1,000 due no later than the first of the month following the effective date of this decision and the subsequent installments due every 60 calendar days thereafter. Each payment shall be made payable to the California Public Utilities Commission and made to CSD, in care of William G. Waldorf, California Public Utilities Commission, Supervisor, Consumer Services Division, 505 Van Ness Avenue, San Francisco, California 94102, or any other person that the Commission, the Assigned Commissioner, or the Assigned Administrative Law Judge, may designate.

6. If Baeza fails to comply with this decision, the remaining fine, including the suspended portion, shall become due and payable immediately.

<sup>7</sup> See D.02-05-028, Ordering Paras. 1 thru 11, [2002 Cal. PUC LEXIS 247 at \\*26 - \\*30](#).

operating as a Household Goods Carrier using these telephone lines and without a valid Permit.<sup>8</sup>

### III. VIOLATIONS

The Commission is empowered by law to permanently revoke the respondent's Permit and fine him for each violation of a Commission order, decision, rule, regulation, or requirement, and/or California Public Utilities Code statute.<sup>9</sup> During his three-year probationary period, according to CPSD the respondent has failed *inter alia* to pay any of the monthly installments of the \$5,000 fine; has not maintained the requisite insurance coverages; has filed none of the quarterly reports; and has not paid the Small Claims Court judgment. The respondent's failure to pay the fines due during his probationary period renders the entire \$19,000 fine immediately due and payable.

Section 5313.5 provides that the Commission may fine the respondent for operating or holding himself out as a Household Goods Carrier without a valid Permit at the time. On December 24, 2001, the License Section administratively revoked the respondent's Permit for lack of the requisite insurance coverages. The respondent has failed to reinstate his Permit since that date. However, during the years 2002 through 2003 CPSD asserts the respondent advertised as a Household Goods Carrier in the South County-Coastal Yellow Pages and in the Recycler Classifieds. Also the CPSD Declaration presents customers attesting to the respondent engaging in such business after his Permit was revoked.<sup>10</sup> If un rebutted, these allegations warrant imposing a fine or penalty for each and every violation by the respondent.

#### IT IS ORDERED THAT:

1. An investigation on the Commission's own motion is instituted into the operations and practices of the respondent Arnold Ray Baeza (Baeza), doing business as a Household Goods Carrier known as "Best Movers."

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<sup>8</sup> See Declaration of W.G. Waldorf, Attach. C.

<sup>9</sup> See *e.g.*, Secs. 5311 & 5285(b).

<sup>10</sup> See *supra* at n8.

2. The respondent is ordered to appear at an evidentiary hearing to be scheduled as described below, and then and there to show cause why the Commission should not adjudge the respondent in contempt of the Commission, for failing to comply with the Commission orders in D.02-05-028 and for violating other Commission order, decision, rule, regulation, direction, demand, requirement, and/or provisions of the Public Utilities Code.

3. A hearing will be held as soon as practical after the assigned Administrative Law Judge (ALJ) convenes a Prehearing Conference pursuant to Rule 49 and schedules a date, time, and location for a hearing in a subsequent ruling or order. The ALJ will issue proposed findings of fact and conclusions of law regarding the following issues:

- 3.1. Has the respondent violated the Commission orders in D.02-05-028?
- 3.2 Has the respondent operated or held himself out as a Household Goods Carrier without a valid Permit in force at the time?
- 3.3 Has the respondent shown cause, if any, why the Commission should not adjudge him in contempt of the Commission pursuant to Section 2113; permanently revoke his Permit pursuant to Section 5285(b); and levy fines and penalties for failing to comply with any part of D.02-05-028 or other Commission order, decision, rule, regulation, direction, demand, requirement, and/or California Public Utilities Code statute?<sup>11</sup>

4. This Order constitutes the Notice of Opportunity to Be Heard pursuant to Section 2113 and 5285(b). Respondent must appear at any scheduled hearing. On a date to be established at the PHC, Respondent must serve prepared testimony responding to the issues stated above and any other allegations presented in this OII and/or in the attached Declaration of William G. Waldorf. Should Respondent fail to appear, the

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<sup>11</sup> The respondent's prior fine of \$19,000 may also be levied as a result his failure to comply with D.02-05-028. *See supra* n5.

allegations in this OII and Declaration will be deemed admitted although the assigned ALJ may require additional evidence or information.

5. Within 30 days after the date of this Order, the respondent must submit a written report to the assigned ALJ, with a copy to the William G. Waldorf, CPSD Supervisor, which contains the following information:

- 5.1. The date and amount of all Household Goods Carrier moves performed by the respondent from the beginning of 2002 to the present;
- 5.2. A copy of all documents used in connection with the moves listed in response to paragraph 5.1 above, which includes but is not limited to bills of lading, receipts, written estimate of service cost, etc.;
- 5.3 A copy of all advertisements placed by the respondent holding himself out as a Household Goods Carrier, including any and all payment receipts, contracts, or other papers involved with the purchase of such advertising; and
- 5.4 A copy of any and all customer complaints received by the respondent since May 16, 2002, and a report of the disposition of each customer complaint.

6. Respondent must cease and desist from any and all violations of and comply with all Commission orders, rules or regulations, and any pertinent Public Utilities Code statute, including the requirement that respondent must obtain the Commission's prior written approval before executing any agreement for the sale, transfer, or encumbrance of any ownership interests of its Household Goods Carrier business.

7. Any and all applications submitted by the respondent while this proceeding is open will be consolidated with this proceeding for consideration.

8. The respondent and any agent, representative, employee, consultant, or other individual or person acting on behalf of the respondent, must cooperate with the CPSD in providing access to the respondent's business accounts, books, papers, and documents (whether in electronic or paper form). The respondent must preserve these data until further orders by the Commission.

9. This ordering paragraph suffices for the "preliminary scoping memo" required by Commission Rule 6(c) of the Commission's Rules of Practice and Procedure (Rule). This proceeding is categorized as an adjudicatory proceeding and will be set for evidentiary hearing. The issues of this proceeding are framed in the above order. A prehearing conference shall be scheduled for the purpose of setting a schedule for this proceeding, including dates for the exchange of additional written testimony, determining which of the Staff's witnesses will need to testify, and addressing discovery issues. As to categorization of this proceeding, this order is appealable pursuant to Rule 6.4. Any person filing a response to this Order Instituting Investigation, Notice with Opportunity to be Heard, and Order to Show Cause must state in any response any objections to such orders and notice regarding the need for hearings, issues to be considered, or proposed schedule. However, objections may not address factual allegations that an evidentiary hearing will decide.

10. The Executive Director will send by certified mail return receipt requested, a copy of this ORDER INSTITUTING INVESTIGATION, NOTICE OF OPPORTUNITY TO BE HEARD, AND ORDER TO SHOW CAUSE to the respondent at the following address:

Arnold Ray Baeza, Owner, Best Movers  
374 North Drake Avenue  
Upland, CA 91786

This order is effective today.

Dated February 11, 2004, at San Francisco, California.

MICHAEL R. PEEVEY  
President  
CARL W. WOOD  
LORETTA M. LYNCH  
GEOFFREY F. BROWN  
SUSAN P. KENNEDY  
Commissioners

## **ATTACHMENTS**

(available on hard copy only)